



POLICE DEPARTMENT

The  
City  
of  
New York

In the Matter of the Disciplinary Proceedings : -----X-----

- against - : FINAL

Police Officer Aldyfrell Gonzalez : ORDER

Tax Registry No. 917694 : OF

Police Service Area 9/Viper 3 : DISMISSAL

-----X-----

Police Officer Aldyfrell Gonzalez, Tax Registry No. 917694, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2010-0218 and 2010-0272 as set forth on form P.D. 468-121, dated December 10, 2009 and June 28, 2010, and after a review of the entire record, Respondent has been found Guilty of Specifications Nos. 1, 3, 5, 6 and 8 for Disciplinary Case No. 86029/10 (2010-0218), Not Guilty of Specifications Nos. 2 and 4, Specification 7 is dismissed. In Disciplinary Case No. 2010-0272, Respondent is found Guilty of Specification Nos. 1 and 2 and Not Guilty of Specification No. 3.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Aldyfrell Gonzalez from the Police Service of the City of New York.

A handwritten signature in black ink, appearing to read "Raymond W. Kelly".

RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE: On March 26, 2012 @0001HRS.



## POLICE DEPARTMENT

February 2, 2012

**In the Matter of the Charges and Specifications : Case Nos. 2010-0218 & 2010-0272**

- against -

Police Officer Aldyfrell Gonzalez

Tax Registry No. 917694

Police Service Area 9/ Viper 3

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable David S. Weisel  
Assistant Deputy Commissioner - Trials

## APPEARANCE:

For the Department: **Pamela Naples, Esq.**  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: Marvyn Kornberg, Esq.  
125-10 Queens Boulevard  
Kew Gardens, NY 11415

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

member of the service known to the Department and state in sum and substance, "Somebody is going to call you. When they call, tell them I called to speak with you."

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED CONDUCT – GENERAL REGULATIONS

6. Said Police Officer Aldyfrell Gonzalez, while on-duty and assigned to PSA 1 (Viper 13), on or about November 23, 2009, did make false and misleading statements during an Official Department interview, to wit: said Police Officer stated that he did not contact a second member of the service known to the Department, when in fact he had.

P.G. 203-08, Page 1, Paragraph 1 – MAKING FALSE STATEMENTS – GENERAL REGULATIONS

7. Said Police Officer Aldyfrell Gonzalez, while out sick and assigned to the 76<sup>th</sup> Precinct, did wrongfully cause false entries to be made in Department records, to wit: said Police Officer did indicate in his memobook that he out Line of Duty sick when in fact he was out regular sick.

P.G. 203-05, Page 1, Paragraph 4 – PERFORMANCE ON DUTY – GENERAL GENERAL REGULATIONS

8. Said Police Officer Aldyfrell Gonzalez, while on-duty and assigned to the 76th Precinct, on or about and between July 10, 2008 and April 30, 2009, did fail to make proper entries in his memobook.

P.G. 212-08, Page 1, Paragraph 1 – ACTIVITY LOGS – COMMAND OPERATIONS

Disciplinary Case No. 2010-0272

1. Said Police Officer Aldyfrell Gonzalez, while on-duty and assigned to the 76th Precinct, on or about March 17, 2009, was discourteous to Elizabeth Reinoso, to wit: said Police officer did place a telephone call to Ms. Reinoso and left an obscene and rude voicemail message.

P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL GENERAL REGULATIONS

2. Said Police Officer Aldyfrell Gonzalez, while on-duty and assigned to the 76th Precinct, on or about March 17, 2009, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer did abuse his authority as a member of the New York City Police Department by wrongfully threatening to have summonses issued to Elizabeth Reinoso.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT PROHIBITED CONDUCT – GENERAL REGULATIONS

3. Said Police Officer Aldyfrell Gonzalez, while on-duty and assigned to Housing Borough Brooklyn, on or about September 16, 2009, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer did impede a Civilian Complaint Review Board investigation by denying that he had left an obscene and rude voicemail message for Elizabeth Reinoso when in fact he had.

P.G. 203-10, Page 1, Paragraph 5 PUBLIC CONTACT – PROHIBITED CONDUCT GENERAL REGULATIONS

The Department was represented by Pamela J. Naples, Esq., Department Advocate's Office, and Respondent was represented by Marvyn Kornberg, Esq.

Respondent, through his counsel, entered a plea of Not Guilty to Specification Nos. 1-6 and 8 in Case No. 2010-0218. The Department moved to dismiss Specification No. 7. Respondent entered a plea of Not Guilty in Case No. 2010-0272. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

In Case No. 2010-0218, Respondent is found Guilty of Specification Nos. 1, 3, 5, 6 and 8. He is found Not Guilty of Specification Nos. 2 and 4. Specification No. 7 is dismissed. In Case No. 2010-0272, Respondent is found Guilty of Specification Nos. 1 and 2, and Not Guilty of Specification No. 3.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Abraham Narvaez, Police Officer Anthony DiSpigna, Sergeant Ronald Perez, Elizabeth Reinoso, Lieutenant Richard Tully, Sergeant Marlon Ming, Lieutenant

John Smith, Sergeant Joshua Foote, Lieutenant John Fioravante, Police Officer Jose Cofresi,<sup>1</sup> and Police Officer Taunya Pelzer as witnesses.

Several 911 calls and radio transmissions were admitted into evidence. The recordings of November 1, 8 and 15, 2008, were admitted as Department's Exhibits (DX) 2, 3 and 4, respectively. The corresponding transcripts of the 911 calls and the transmissions were admitted as DX 2a and 2b, 3a and 3b, and 4a and 4b, respectively.

Abraham Narvaez

Narvaez was the owner of Lola's Jazz Café in Brooklyn (at 613 Fifth Avenue). During the early morning hours of November 1, 2008 (a Saturday), he arrived at the café and learned from an employee, [REDACTED], that a police officer had tried to gain entry into the establishment earlier that night but was turned away because he was armed with a gun. When [REDACTED], aware that he was an officer, invited him in, the officer "got a little arrogant," refused to enter, and left.

- Narvaez "heard" that the officer returned in a police car, dressed in uniform, on "Sunday." The officer "called [REDACTED] outside and told him that from now on he's going to start breaking chops. . . You know, give us a hard time."

Subsequently, Narvaez contacted his lawyer, who sent a letter to the commanding officer of the 76 Precinct (see DX 1, letter dated Nov. 17, 2008). The letter read, "At first this may appear to be a matter which you need not deal with because the premises are not within your command." Lola's was in the confines of the 72 Precinct. The letter stated that the officer involved, "P.O. Gonzalez," was assigned to the 76 Precinct. It alleged that on November 1, 2008, "at about" 0030 hours, the officer "indicated that he was going to make sure that the

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<sup>1</sup> This officer's name is spelled "Confresi" in some parts of the transcript. Based on Department records, the correct spelling of his name is "Cofresi."

person who searched him better have a security license or he was going to get a summons.” On November 2, 2008, “at approximately the same time,” the officer “appeared in uniform” bearing the name Gonzalez “with a squad car at the premises.” The letter listed several summonses and complaints that were subsequently made against the business and said that it “[o]bviously” related back to the officer’s denied entry on Halloween night.

On cross examination, Narvaez said he purchased his establishment from one Carl Healey in 1993. Before Lola’s, his establishment was previously named Wit’s End and Mambo Lounge. After its stint as Lola’s, it was again renamed Mambo Lounge. At one time, Narvaez had a liquor license in his name. He denied that he was “fronting” ownership for someone else. The original Mambo Lounge was closed through action of the Department. It was renamed Lola’s. In December 2008, Narvaez sold the establishment to new owners, who renamed it Mambo Lounge once again.

Narvaez agreed that Lola’s was inspected by members of the Department many times, before and after the incident, for license and permit issues. He received no more than 20 summonses for violations, before and after the incident. He pled guilty to these summonses and paid the fine.

Narvaez was not certain where the officers who inspected and summonsed him were assigned. He denied that, between the time his establishment was known as Lola’s and the time it became the Mambo Lounge, that the establishment had “a problem with narcotics” or that he was summonsed or closed down by narcotics officers. He said Lola’s was closed down for cabaret-law violations. It had never been closed down since the incident. When asked, however, if there had been 33 arrests at Lola’s from 2007 to 2009, Narvaez recounted that a bartender was dealing drugs at the bar, unbeknownst to him. He also admitted that he was arrested when a

large brawl occurred after he asked a patron to leave the establishment. The patron was also arrested. Narvaez was released without being arraigned and was not convicted of any crime.

Narvaez testified that [REDACTED] did not say whether the officer was alone or with someone during the incident in question. He did not remember being interviewed by members of the Department on December 11, 2008, and saying that a male and a female tried to enter Lola's together. He denied that [REDACTED] ever told him that the officer was with a female and did not think that he had relayed that information during the Department interview. He denied that he said during the interview that [REDACTED] was the bouncer; [REDACTED] was the manager. There was a bouncer there that night, [REDACTED], and it was he who denied the officer entry. [REDACTED] informed [REDACTED], who went outside and invited the officer in but was rebuffed.

Narvaez had a bouncer at Lola's that night because it was Halloween, "and people come in with masks on, and we make sure we know who's coming in." He did "[n]ot really" have bouncers on other nights, but let some customers "play bouncer" when they wanted to help out. Narvaez did not believe [REDACTED] ever carried a gun.

As to the officer's return in a police car the day after the incident, which would have been a Sunday, Narvaez said he was told about it by [REDACTED] on "Sunday to Monday." When asked if [REDACTED] ever told him that the officer returned on Saturday, Narvaez answered, "I'm guessing it was Sunday but it could have been Saturday." Narvaez was not sure if [REDACTED] told him that the officer's nametag read Gonzalez, or whether Narvaez had told that to the Department.

On re-direct examination, Narvaez explained that, regarding the closing of the original Mambo Lounge because of the cabaret violation, Narvaez went to court, paid a fine, and reopened within two days. This occurred in 1995 or 1996.

Police Officer Anthony DiSpigna

DiSpigna had been a member of the Department for about five years and was assigned to patrol in the 72 Precinct. On November 1, 2008, he responded to 613 Fifth Avenue for a 10-52, dispute with a firearm. At the scene, he did not see anything that seemed to be related to the job and asked the radio dispatcher for a callback to get further information. The dispatcher was unable to find out further information, except that the call came from a payphone located at the corner of Fifth Avenue and 17th Street.

No one approached DiSpigna while he was at the scene and he was unaware of any off-duty officers being present. He gave the job a final disposition of 10-90X, unfounded, because he received no other information that would have corroborated that the job was legitimate.

On cross examination, DiSpigna remembered handling calls at 613 Fifth Avenue, but could not remember any calls in particular. He surmised there might have been noise complaints, but did not recall any jobs involving fights or drugs. He did not recall going to that location and having any prior unfounded complaints.

DiSpigna testified that the payphone location was within his line of sight. He saw no one there that night, but he could not recall if there was an actual payphone there. The corner of 17th Street was visible from the front of 613 Fifth Avenue.

Sergeant Ronald Perez

Perez, an eight-year member of the Department, had previously been assigned to the 72 Precinct. On November 8, 2008, he was assigned as patrol supervisor, working the midnight platoon. He responded to a “gun run” at 613 Fifth Avenue. Upon arriving at the scene, one of his officers informed him that the job was unfounded. No civilians approached Perez. He did

not recall if he conducted any investigation into the nature of the radio run. The job's final disposition was 90X.

On November 15, 2008, Perez responded to the same location for a 10-13, officer in grave need of assistance. He remembered that he had responded to the same location a week prior. Upon arriving at the scene, one of his officers informed him that the job was unfounded. This time, Perez was approached by a man that identified himself as the manager of "the establishment." The manager, also named [REDACTED], claimed that the 911 calls were being made by someone that had claimed to be a police officer. Off duty, he had come by several weeks prior and was refused entry because he was armed. This officer, the manager stated, subsequently said "that police were going to be sent to this location to harass and annoy him."

The manager told Perez he knew this person was an officer because a few days after the initial incident, the officer returned, in a marked police car and uniform, and that was when the manager was able to get the officer's name and vehicle number. After contacting the platoon commander, the Internal Affairs Bureau (IAB) was notified. Perez believed the job was finalized as 10-91, non-crime corrected.

On cross examination, Perez stated that he did not know how many arrests were made at 613 Fifth Avenue during the one year and a "few months" he was assigned to the 72 Precinct, or how many times the police were called to that scene. He believed the establishment had been deemed either off limits or an illegal location. Either way, officers were not allowed to patronize it. After these incidents, around March or April of 2009, Perez assisted Brooklyn South Narcotics in executing a search warrant at the same location. He did not search the location and did not know if the place was shut down as a result of the search. He believed arrests were made, but he did not participate in those arrests. He did not recall if the establishment's name

change from Lola's to Mambo Lounge took place before or after the search. He did not know who the owner was at that time.

When asked if he had provided the final disposition of 10-90Y, unnecessary, on either of the radio runs, Perez did not "remember exactly" how he finalized those jobs. He did not recall what response he received from the radio dispatcher when he asked for a callback on November 15, 2008.

Perez could not recall whether the manager said the officer left and returned "the next day" or "a couple of days later." Perez "could have" told IAB when he phoned them on November 15, 2008, that the officer returned the next day in uniform in a marked radio motor patrol car (RMP). The manager might have told Perez that the officer's name tag read Gonzalez.

Elizabeth Reinoso

Reinoso had a relationship with Respondent for a few years, including during the time of the Halloween incident, before it ended "a couple of years ago." She was aware that he was a police officer, and she was aware that she worked at Lola's as a bartender, mostly on Fridays.

On October 31, 2008, Reinoso and Respondent agreed to meet after he got off work. She was working at Lola's when Respondent called her and she went outside to meet him. The bouncer, however, would not let him in because he was armed. Reinoso called the manager to speak to the bouncer about letting Respondent in. When the manager finally convinced the bouncer to allow Respondent entry, Respondent got upset, refused to go in, and left.

After the incident, Reinoso and Respondent did "[n]ot really" speak about what occurred. There were times, however, when Respondent called her and warned her "that if you don't have a bartender license don't go to work today because there will be cops coming in searching

everything and they are going to be asking for license. If you don't have one, everybody who doesn't have one will be getting arrested."

In March 2009, Reinoso was driving when she was stopped by a 76 Precinct sergeant (later identified as Sergeant Tanya Houston) because she "took a yellow light." During the stop, one of Reinoso's children in the car mentioned that "Aldy" worked in the 76 Precinct and Reinoso replied to the child that "Officer Gonzalez" did work there. Houston asked Reinoso if she knew Respondent and she said she did. She heard Houston call for "non-emergency backup" and also overheard Houston on the phone, seemingly leaving a message for Respondent, saying that he needed to call Houston immediately. According to Reinoso, Houston said on the phone that Respondent "need to better choose his friends." She was not issued a summons.

After the traffic stop, Reinoso called Respondent and left him a message that she "got pulled over by someone who called herself a sergeant." Reinoso told Respondent that her son saw the precinct involved and it was he, not Reinoso, that mentioned Respondent's name. Reinoso told Respondent that she did not run a red light; it was still yellow. She was telling him this in case Houston spoke to him.

Reinoso then received a voicemail message from Respondent. Respondent said that he was told by one of his supervisors that Reinoso had mentioned his name. He told Reinoso that she was lucky he had not answered his phone because he would have told them to "put handcuffs on you and take you to the precinct." The message continued that he informed his coworkers that should they encounter Reinoso, they should "summons her until she cries."

Reinoso filed a complaint with the Civilian Complaint Review Board (CCRB) because she felt threatened by the message. She saved the message on her phone and played it for investigators (DX 5, recording of message).

On cross examination, when asked about her “bartender’s license,” Reinoso said that she received one from a school. She indicated that she actually received a certificate from the school, “it is legally by the state.”

Reinoso worked at Lola’s from the summer to Thanksgiving of 2008. She and Respondent broke up after Valentine’s Day of 2009 after he returned from a trip. She told him not to call her again. Between the time she met Respondent to the time they broke up, she only mentioned Respondent’s name to another police officer once. This was a friend they had in common. Reinoso denied that she was ever pulled over by police while she and Respondent were dating and mentioned his name to the officers.

Reinoso believed that the traffic stop took place on March 15, 2009, and that Respondent called and left her the message on March 17, 2009. She was interviewed by the CCRB that month.

After being pulled over, Houston approached and informed Reinoso that she had run a red light. Reinoso argued that the light was yellow. She described Houston’s uniform as “a regular uniform” and did not see anything on her arms. Reinoso did not believe Houston was a sergeant because the sergeant she had seen Respondent riding with wore a white shirt.

Reinoso produced her driver license but could not find the registration; it had fallen between the seats. It was then that she overheard Houston call for non-emergency backup and additional cars arrived. Reinoso agreed that when Houston returned to Reinoso’s car, Houston told her not to disrespect her. This was because Reinoso wondered aloud why Houston was calling for backup. Her children “started laughing and they said are we some criminal or something, and we all laughed.” She denied she said anything about Houston’s hair but agreed that her daughter said, out of Houston’s earshot, “something about [Houston] needs to dress

more professional because her clothes is about to blow up and her hair, the weave looks like it's going to fall off." It was these comments of her tween and teenage children that led to the laughter.

Reinoso insisted that her son had referred to Respondent, in Houston's presence, as "Aldy," not "Officer Gonzalez." She did not recall telling CCRB investigators that her son had said, "Mommy, isn't that the precinct, um, where Officer Gonzalez works at?" Her son was seated behind her in the car and saw from Houston's uniform that she was from the 76 Precinct. According to Reinoso, she replied, "[Y]eah, that's where Officer Gonzalez works at."

Reinoso admitted that she "made the mistake of asking" Houston "is he working today." Reinoso insisted, however, that she had "[n]o intention" behind that inquiry. Houston responded to her, "I'm the one who asks the questions here." Reinoso agreed that she mentioned Respondent's name when she asked Houston if he was working, then denied this, saying that when her son asked about "Aldy," she replied to her son that "Officer Gonzalez" worked at the same precinct as Houston. It was upon *Houston* asking *Reinoso* if Reinoso knew Respondent that Reinoso asked if he was working that day.

At the time of the traffic stop, Reinoso and Respondent were no longer dating and she did not recall how long prior to the stop she last saw him. Reinoso did not remember saying in the message that Houston was being rude.

Reinoso stated that in the message she received from Respondent, it "sounded as his normal way of talking." She agreed that in his message, Respondent told her, "[Y]ou got no right to be calling me," because he did not want her to call him. She understood Respondent's statements of, "[H]ow dare you call me," and, "[D]on't ever fucking call me again," to mean that he did not want any contact with her. Reinoso said that after the two broke up, they were not

enemies but she decided she did not want him to call her. Contact between them ceased completely until she initiated contact with her phone call after the traffic stop.

Reinoso admitted that she called Respondent twice around the time of the traffic stop; once as Houston was walking back to the police car and again after the traffic stop was over, leaving a message the second time. She denied she left messages during both calls; she did not recall leaving two messages; and she disputed her own CCRB interview, during which she agreed that she left messages both times.

Reinoso made a CCRB complaint against the sergeant for courtesy because “I didn’t consider her behavior was appropriate. I didn’t do nothing for her to do everything she did. . . . Pulling me over and calling for non-emergency backup when I haven’t done anything for that, and making a big scene, bringing more cops in, and I got kids in the car.”

Lieutenant Richard Tully

Tully, of the Brooklyn South Investigations Unit, was assigned to investigate Respondent. The investigation included the allegedly false complaints that led to the three radio runs at Lola’s. The investigation was sparked when a Lola’s employee told the patrol supervisor that responded to one of the jobs that Lola’s had been the subject of false 911 calls. This started after an off-duty officer was refused admittance while armed. The investigation also concerned a letter from Lola’s attorney saying that the establishment was being subjected to “phony radio runs.” The letter also alleged that Lola’s had been given a summons that was “perceived to be harassment.”

Tully determined that the issuance of the summons was coincidental and had nothing to do with the 911 calls. After checking a Department computer database, he also found that

between January 2007 and April 2009, there were 433 radio runs at 613 Fifth Avenue and 33 arrests in and around that location. Between November 1, 2008, and February 21, 2009, there were approximately 33 radio runs at that location. He focused on six 911 calls because they "fit the criteria of what [Lola's] was alleging; those being gun runs at the location, single [sic] 10-13s at the location." When Tully listened to the tapes of the six, he found that three, made on November 1, 8 and 15, 2008, appeared to have been made by the same individual. The first two calls were for guns and the third was a 10-13.

In May 2009, Tully played a recording of the calls for three supervisors at Respondent's command, the 76 Precinct: Sergeant Joshua Foote, Lieutenant John Fioravante, and the integrity control officer (ICO), Lieutenant John Smith. All three identified Respondent as the caller.

Tully interviewed officers who responded to the three radio runs and they stated that the jobs were unfounded. He also spoke to [REDACTED], the manager at Lola's, on three occasions.

[REDACTED] informed him that on November 15, 2008, he mentioned to Perez, the 72 Precinct patrol supervisor, that false radio runs were being phoned in at the location.

Tully learned from [REDACTED] that on November 1, 2008, an off-duty officer was denied entry to the location because he was armed. When [REDACTED] came out and offered to admit the officer, he refused to enter and left instead. The following day, the officer returned in a marked 76 Precinct police car wearing a uniform with Gonzalez on the name tag. He told [REDACTED] that the bar was going to start having problems. Tully did not believe [REDACTED] gave him a physical description of the officer in question, and [REDACTED] was unable to select Respondent as the subject officer from a photo array.

The second and third times Tully contacted [REDACTED], he no longer wanted to cooperate with the investigation. During their final conversation, about six weeks ago, [REDACTED] indicated he no

longer had anything to do with the establishment and refused to appear at the instant proceeding.

Tully conducted two official Department interviews of Respondent, one on November 4, 2009 (DX 6 & 6a, recording and transcripts), and the other on November 23, 2009 (DX 7 & 7a, recording and transcript).

During the first interview, Tully questioned Respondent about the November 1, 2008, incident. Respondent initially claimed that he was not familiar with Lola's as he knew that location as the Mambo Lounge. He said he had not been to that location in approximately seven years prior to the incident date but then changed his answer and said he might have been there in the months preceding the incident. He could not provide a specific date or state whom he was with.

According to Tully, Respondent said he had known Reinoso for about three years and they "would routinely go out." Respondent could not remember and was not sure if he ever went to Lola's or Mambo with Reinoso. He then said, however, that on November 1, 2008, he was going to meet her there and they were going to go into the location together. He initially said he had not seen or spoken to Reinoso since the incident date, but then later recounted that he had called Reinoso and told her that she "should have her bartender's license in order," as he was aware that Lola's was having problems.

Respondent admitted to Tully that he returned to Lola's after the Halloween incident on a radio run, but he did not specify the date and did not believe it was later in the day on November 1, 2008. Respondent was unspecific as to whether his return was days or weeks afterwards. While on the radio run, Respondent admitted encountering the man who had invited him to enter the club after he was initially denied entry. Respondent did not make any entries in his Activity Log regarding the radio run (DX 8). Tully explained that although Lola's was located in the

confines of the 72 Precinct and Respondent was assigned to the 76 Precinct, the two precincts were adjoining and it was “not uncommon” for officers to respond to jobs outside the precinct boundaries, particularly jobs involving officers needing assistance. Tully further noted that there were “numerous omitted and erroneous entries” during the period of July 10, 2008, and April 30, 2009, including October 31, 2008.

At the conclusion of the first interview, Tully told Respondent “not to have any contact with anybody in the 76 Precinct regarding this matter because this is an ongoing investigation.” He issued this directive because he had learned during the interview that Respondent went to meet Reinoso on the night of the incident with a co-worker, Police Officer Jose Cofresi. Tully wanted to get Cofresi’s perspective. It was during Cofresi’s official Department interview on November 5, 2009, that Tully first learned Reinoso was a bartender at Lola’s. During the incident, Cofresi did not hear the interaction between Respondent and the people at Lola’s entrance because he was across the street. Tully said that Cofresi, upon being played the tape of the 911 calls in question, was “fairly certain” that the caller was Respondent. Cofresi also revealed that after Respondent’s first interview with Tully, Respondent called the 76 Precinct, spoke to Police Officer Taunya Pelzer about locating Cofresi and eventually made contact with Cofresi. Respondent told Cofresi that his name had been mentioned in the interview and that Cofresi was going to be interviewed as well.

Tully interviewed Respondent a second time, on November 23, 2009, to ask him about additional information that might have conflicted with his first interview and about his contact with Cofresi. Respondent reiterated that he had gone to Lola’s or Mambo seven years ago and possibly within the months prior to Halloween 2008 but could not be specific. He also said he might have gone there with Reinoso once but was again unspecific as to when or if this actually

happened. Tully also stated that Respondent contradicted himself when he initially said he was unaware that Reinoso was a bartender at that location, then later recounted that after the November 1, 2008, incident, he contacted Reinoso and stated that if she worked at that location, she “should be sure to have all her licenses in order” because the establishment was having problems.

Respondent did not believe he had been to Lola’s or Mambo with Cofresi prior to November 1, 2008. Tully said Respondent was “adamant” that he never made any contact with Cofresi after his first interview on November 4, 2009.

When Tully interviewed Pelzer, he learned that on the evening of November 4, 2009, she received a call from Respondent at the 76 Precinct telephone switchboard (TS). Respondent was looking for Cofresi. When he could not be located, Respondent told Pelzer to have Cofresi call him, but to “not use a Department phone.” Upon encountering Cofresi later, Pelzer allowed him to call Respondent from her cell phone. She did not hear the content of their conversation. Then, on the day of Respondent’s second official Department interview, November 23, 2009, Respondent called Pelzer’s cell phone and told her “in essence” that she was going to be interviewed. “When they call you down, tell them that I only called the Precinct to speak with you,” Respondent told Pelzer.

Tully asserted that Respondent impeded the investigation in that “there [were] numerous inconsistencies to questions that [were] posed to him.” He cited that Respondent had said he had not spoken to Reinoso for three months prior to November 1, 2008, then reversed and said he had spoken to her on multiple occasions prior to that date. Respondent had stated that he never attempted to go into Lola’s with a firearm, then changed that by saying that someone said he could enter with a firearm. Respondent had denied knowing that Reinoso worked at Lola’s, then

said he was aware of her employment there and that was why he called her. Furthermore, Respondent claimed not to have contacted anyone regarding the ongoing investigation, while Cofresi and Pelzer told Tully otherwise.

On cross examination, Tully agreed that while questioning Respondent, he used the terms "Lola's" and "Mambo Lounge" interchangeably, at times using one or the other. He was aware that the establishment had two different names at different times. He did not know the period of time it was known as Mambo, but it was known as Lola's during the course of his investigation. He also did not know if Respondent was aware of when the location was called by one name or the other. Tully agreed that sometimes he used one name for the other in his questions and Respondent answered his specific questions. It was possible that some people used both names interchangeably or used one name and were not aware of the other.

Tully asserted that Respondent was not "inaccurate" but was "misleading" when he said in his interview that he was not familiar with Lola's but indicated that he was familiar with the Mambo Lounge, having last been there seven years ago. When Respondent said he had been to that location seven years prior, he referred to it as the Mambo Lounge. Tully was not aware of what the location was known as seven years ago. He considered Respondent's answer to be misleading because he believed that Respondent knew that Lola's was the Mambo Lounge. He conceded that he had no knowledge, other than his belief, that Respondent knew that Lola's was the Mambo Lounge.

Tully agreed that when he referred to the establishment as "the location" rather than by name, Respondent said he had been there and it may have been approximately three months or three weeks prior to November 1, 2008. Respondent admitted to Tully that he returned to Lola's after the November 1, 2008, incident, although he could not recall on which date.

Tully charged that Respondent knew Reinoso was employed at Lola's, even though he said in the interview that he did not know. This was because Cofresi said that he and Respondent went to that location to meet Reinoso because Respondent knew she was tending bar that night.

Respondent indicated to Tully that he had known Reinoso for three or four years. Respondent said that they were "just friends." He conceded that they "went out," but maintained that even though they had a sexual relationship, they were not dating. Tully said Respondent specifically told him, "We never broke up, because we were never dating." Tully opined, "Somebody that's been involved in a relationship for three years . . . go to the restaurants and . . . movies, what have you, have an intimate relationship, they are dating." Respondent did not indicate when he and Reinoso were intimate. Tully did not know whether, on November 1, 2008, they had stopped seeing each other, although Tully was "[v]erily certain" that Reinoso claimed they were still dating.

Tully said that Respondent initially told him he had not spoken to Reinoso in the three months before the Halloween incident, but changed his statement to say he might have spoken to her once or twice a month during those three months.

Respondent told Tully that when he went to the lounge, a male screamed at him and told him that he was not getting in. Respondent then got in his car. He did not tell Tully that he had an argument with someone over a gun. Respondent did not know why the man screamed at him or why the man would not let him in.

Respondent admitted to Tully that he called Pelzer on the date of his first official Department interview, but he did not recall the substance of their conversation.

The records check that Tully conducted on the Department computer database was for the

timeframe of January 2007 through April 2009. He queried the address of Lola's, 613 Fifth Avenue, and "the vicinity thereof," up to 500 feet from that location. He learned that there had been 433 radio runs for that location during that time but he could not ascertain offhand what those calls were for, the names of the businesses concerned, what types of calls they were, or whether some of them were for assault or drugs. Additionally, 33 arrests were made at that location or in the vicinity. He opined that 433 calls at that location was a "big amount." Tully agreed that it was not substantiated that the establishment was being picked on with respect to the 433 calls and 33 arrests. 59 calls were listed as unfounded (see Respondent's Exhibit [RX] A, database printout, p. 7). RX B showed the kinds of arrests made within 500 feet of the location during the indicated timeframe.

Tully determined during the course of his investigation that the address 613 Fifth Avenue was on the off-limits locations list. He could not recall if he actually possessed the list or if he was told this information by the ICO. Without looking at his case folder, he could not say how he came to the conclusion that the establishment was off limits. Tully did not know whether the information contained in the 72 Precinct integrity monitoring files dated March 28, 2008, and February 25, 2009, was ever disseminated to any particular officer.

[REDACTED] was Lola's manager on November 1, 2008. Both [REDACTED] and Narvaez indicated to Tully that a bouncer was present on the night in question. The photo array Tully showed [REDACTED] contained a photograph of Respondent. [REDACTED] could not identify Respondent as the officer he claimed he had the conversation with. Because [REDACTED] could not identify Respondent, Tully wanted to show [REDACTED] additional photo arrays containing the photographs of the other officers named Gonzalez. He was unable to do so because [REDACTED] stopped cooperating.

Tully stated that when he went to Respondent's supervisors at the 76 Precinct to have

them listen to the voice on the 911 recordings, he did not call them ahead of time. Rather, he “[p]retty much” just came to the station house and spoke to the commanding officer. Tully told him, “I have tapes that I pulled in regarding this investigation. In my opinion, the tapes were made by this individual.” He mentioned Respondent’s name as that individual to the commanding officer. He used the same procedure when he played the tape for the other supervisors.

Sergeant Marlon Ming

Ming, of IAB, was assigned to investigate Respondent in March 2010. This was after Tully notified IAB of the Department Advocate’s Office’s allegations that Respondent had made false statements at a CCRB hearing. Ming learned that the CCRB complainant (Reinoso) filed a case for courtesy. After contacting CCRB, Reinoso also stated that Respondent was rude to her and left a message on her phone “indicating that he was going to have her locked up and so forth.”

Ming said that during Respondent’s CCRB interview (DX 9 & 9a, recording and transcript), the investigators specifically asked Respondent if he had contacted Reinoso. He was asked if he ever threatened to have her arrested, or threatened to have anyone issue her summonses, or “put her in handcuffs,” and Respondent said no. Ming then conducted an official Department interview with Respondent. After allowing Respondent to review his CCRB interview, Ming posed the same question to him and Respondent again denied threatening Reinoso. When Ming played Respondent the message left on Reinoso’s phone, Respondent admitted remembering that he left the message, but claimed he did not recall it previously.

On cross examination, Ming agreed that it was improper to use an officer’s name to avoid

getting a ticket or to obtain favors or courtesies. He could not say whether Reinoso's use of Respondent's name was improper, as he did not know how the name was used. He agreed, however, that Respondent and a supervisor, Houston, had a conversation about Reinoso using Respondent's name to avoid a ticket.

As part of his investigation, Ming read Houston's CCRB interview. Houston said that Respondent's name was mentioned by someone in the car but Ming could not recall if it was by Reinoso. He contended that Houston never made any mention of someone trying to get out of a summons, adding, “[b]asically it was that she reached out to [Respondent] when she saw him and said, listen, it has to stop, that [Reinoso] was being very discourteous and she was being rude.”

Ming agreed that Respondent “[a]bsolutely” had the right to tell Reinoso not to use his name. Nor was there anything wrong about informing her that if she did use his name, he was going to have her arrested.

Ming recounted that the traffic stop occurred on March 15, 2009. Houston spoke to Respondent two days later at around 1700 hours, when he came in for work. The message Respondent left Reinoso was time-stamped for shortly thereafter.

Lieutenant John Smith

Smith had been the 76 Precinct ICO since 2004. He had known Respondent since June 2002. Smith was familiar with Respondent's voice as he spoke to Respondent face-to-face two or three times a week. He also heard Respondent's voice while monitoring the radio.

In November or December of 2008, Smith received a letter (DX 1) alleging that a café or club located at 613 Fifth Avenue refused admission to a male who was carrying a firearm. This

male appeared sometime after the incident in a police car wearing a uniform with a nametag that said "Gonzalez." It was claimed that a summons that the club subsequently received was related to this male's denied entry. Although there were three officers with the surname Gonzalez assigned to the 76 Precinct in 2008, and all were male, Smith determined that the male in question was Respondent because Smith "was aware of all three of the officers' apparent history with me and the Department."

Prior to an official Department interview in May 2009, Tully called Smith to Tully's office and had him to listen to three 911 calls. Smith asked him if he could identify the caller's voice. Smith did not hesitate in identifying the voice as Respondent's. He was familiar with the voices of the other officers named Gonzalez and did not think the caller's voice sounded like them. Smith said the voice "sounded like" Respondent, noting, "There was a very distinct way of saying numbers that I recognized."

On cross examination, Smith clarified that the letter claimed it had been on November 2, 2008, at 0030 hours, that the officer with the Gonzalez nametag appeared in uniform in a police vehicle. Smith did not check the roll call to see if Respondent was working at that time.

Respondent's Activity Log (DX 8) indicated that on November 2, 2008, his tour started at 0515 hours. His previous tour ended on November 1, 2008, at 2330 hours.

Smith did not remember Tully bringing up Respondent before Smith identified Respondent's voice.

Sergeant Joshua Foote

Foote had been a sergeant in the 76 Precinct anti-crime unit. He was Respondent's direct supervisor in November 2008 and was familiar with his voice, as he spoke to Respondent several

times on a daily basis, both in person and via radio and cell phone.

Prior to his May 2009 official Department interview, Foote was called to the commanding officer's office and was asked to listen to three 911 calls. He recognized the male caller's voice without hesitation as being that of Respondent.

On cross examination, Foote testified that before he was told to listen to the 911 calls to see if he recognized the caller's voice, he was not asked to identify if the caller was Respondent.

Upon questioning by the Court, Foote said he supervised the night anti-crime team that worked from 1800 to 0235 hours. Normally, the team operated with two or three officers assigned to separate vehicles, in plainclothes. There were instances when members of his team were used for patrol assignments, and then those members would be in uniform.

On further re-cross examination, Foote was not sure of the exact number of 76 Precinct officers named Gonzalez. Another officer named Gonzalez worked in uniform and in a marked police car. Respondent primarily worked in plainclothes and in an unmarked vehicle, and only wore his uniform on "rare occasions." Foote was not aware if any of the other officers named Gonzalez worked on November 1 or 2, 2008.

On further re-direct examination, Foote said the other officer named Gonzalez worked the 4x12 tour and was not under his direct supervision.

Lieutenant John Fioravante

Fioravante was the special operations lieutenant at the 76 Precinct from April 2007 to July 2009. Respondent worked on patrol during the 4x12 tour and under Fioravante in the anti-crime team. He spoke to Respondent about once a day, three or four times a week. He communicated with Respondent face-to-face, by landline or cell phone, and over radio.

Fioravante considered himself to be familiar with Respondent's voice.

In May 2009, during an official Department interview, Fioravante was played a recording of the three 911 calls and was asked if he recognized the voice on the tape. Without hesitation, he recognized the voice as Respondent's. There was nothing specific about the caller's voice that made him sure that it was Respondent's voice.

On cross examination, Fioravante denied he had a conversation with Tully prior to his official Department interview; Fioravante was outside the office and was called in by Tully and "the captain." He denied that Tully queried whether the voice on the tape belonged to Respondent; rather, Tully told him to listen to the tape and inform him if he recognized the voice. To Fioravante's recollection, Tully did not mention Respondent's name in connection with the voice, but he conceded that his recollection was "[p]ossibly" wrong and perhaps Respondent's name was given to him before he listened to the tape.

Fioravante testified that Respondent would have been wearing plainclothes when working in anti-crime.

#### Police Officer Jose Cofresi

Cofresi had been assigned to the 76 Precinct for the entirety of his career, six-and-a-half years, and had known Respondent for that same amount of time. They occasionally were partnered together and were partners on October 31, 2008, performing patrol in uniform. They worked either a 1500x2335 or 1800x0235 tour.

At the end of their tour, Cofresi and Respondent headed to a bar that Cofresi knew as the Mambo Lounge. Cofresi added, "[L]ater on it's called Lola's Café." Earlier in their tour, the two had discussed going out after work and Respondent had suggested this establishment,

because Respondent knew the bartender, Elizabeth. Cofresi was familiar with Elizabeth because she lived in the neighborhood they patrolled. There were times that he worked with Respondent when they saw Elizabeth and Respondent talked to her. He did not remember if Respondent referred to the establishment as "Lola's."

Upon arriving at Lola's, Cofresi and Respondent did not enter the establishment, as they were armed and were trying to ascertain if they could enter bearing arms. Respondent went to check with Elizabeth, who came outside, to see if they could enter. After speaking to her, Respondent came across the street to where Cofresi was. Aside from the bartender, Cofresi did not come into contact with any other employees of the establishment, although he did see the bouncer and the manager. Upon learning that they were not going to be allowed in, the two officers shook hands, said they were going home, and got into their separate cars. Cofresi last saw Respondent when each was in their vehicles as Cofresi departed.

While working, Cofresi had responded to Lola's for a "couple" of 10-13 and 10-85 jobs. He never actually arrived on the scene during those calls so he did not know their outcomes.

The day before Cofresi's official Department interview, Respondent called another officer, Pelzer, on her cell phone and asked to speak with Cofresi. He got on the phone and had a quick conversation during which Respondent told him that he was going to be subjected to an official Department interview and to tell the truth, "[t]ell them exactly what happened when we were at the bar." Cofresi replied that he would. During his interview, he listened to three 911 calls and recognized the caller's voice to be that of Respondent.

On cross examination, Cofresi denied that, before listening to the 911 calls, Tully told him that he wanted him to determine if it was Respondent's voice. Cofresi and Respondent worked in the same "unit" for almost a year and they spoke almost every day. He agreed that, at

his official interview, he said he was 75 to 85 percent sure the voice in the 911 calls belonged to Respondent.

Cofresi did not recall stating at his official Department interview that Respondent had not mentioned the bartender's name to him. He also did not recall being asked at the interview if Respondent "was supposed to meet Elizabeth at the bar that night?" and answering, "I guess, I don't know if it's the same, he said he going to meet the bartender, so I don't know."

Cofresi and Respondent got to the bar at the same time, in separate cars, and parked across the street from the establishment. Upon arrival, Cofresi did not see any arguments taking place, nor was Elizabeth outside. Cofresi observed Respondent cross the street to the establishment and then wait. Respondent did not converse with anyone until the bartender emerged from the bar. Cofresi did not see or hear Respondent argue with anyone, and he did not observe anything animated that would indicate Respondent was in an argument.

After speaking to Elizabeth, she went back inside the bar and Respondent came across the street. He did not see Respondent engage a bouncer or manager in any kind of fight or argument. He saw the bouncer and manager appear from inside the bar when Elizabeth went back inside; prior to that, he had not seen the bouncer and manager outside engaging in any conversations. By the time the bouncer and manager came out, Respondent was already back across the street with Cofresi and told Cofresi that Elizabeth was going to check to see if they could gain entry with their firearms. There was no confrontation with any bouncer or manager up to that point in time. The bouncer and manager seemed to be arguing across the street, in front of the establishment; Cofresi did not know where Elizabeth was and did not recall ever seeing her again. He did not observe Respondent engage either in any conversation or argument, nor did the bouncer or manager come across the street to where he was. He saw Respondent get

into his car but did not see his car moving.

On re-direct examination, Cofresi testified that he observed only the bouncer and the manager standing in front of Lola's; there was no crowd. The two were gesturing but Cofresi could not hear anything.

Upon questioning by the Court, Cofresi said he had been to the establishment before and it was the type of place where patrons were frisked for weapons. He knew he was not going to be able to get into the establishment on Halloween night based on the arguing between the bouncer and the manager, who came out after Elizabeth went back inside. While Cofresi could not hear what they were saying, the bouncer and the manager were gesturing and pointing. He did not know if the gesturing was directed at the officers.

Police Officer Taunya Pelzer

Pelzer had been assigned to the 76 Precinct for six years. On November 4, 2009, she was working a 4x12 tour when she received a call from Respondent on the TS, where she was assigned because of limited duty status. Respondent asked to talk to Cofresi. When Pelzer told Respondent that Cofresi was not there, Respondent told her to tell him not to use the TS phone when he returned the call. Afterward, when Pelzer saw Cofresi, she dialed Respondent's number on her cell phone and allowed Cofresi to use it to speak to Respondent. Cofresi did not speak to Respondent in her presence and she did not find out what they discussed.

Subsequently, Pelzer received a cell phone call from a number she did not recognize. She was at her brother's house "like around Thanksgiving of November." It was Respondent, who told her to "tell people, if anybody calls, you tell them that I called to speak to you. . . . [Y]ou tell them I to [sic] spoke to you." He then hung up. Pelzer did not have an opportunity to

ask what he meant and what he said did not make sense at that time.

Sometime later, Pelzer received a notification for an official Department interview. She asked Cofresi about it and he confirmed it was about Respondent. Cofresi told her to tell the truth. She figured it was related to the phone call she got at the TS.

### Respondent's Case

Respondent called Sergeant Tanya Houston as a witness and testified on his own behalf.

#### Sergeant Tanya Houston

Houston and Respondent worked together at the 76 Precinct where she was one of his supervisors. Concerning the March 2009 traffic stop involving Reinoso, Houston was the patrol supervisor and was in uniform, operating a marked police car, when she pulled over Reinoso for running a red light. When Houston explained to Reinoso the reason for the stop, Reinoso said she did not realize she ran the red light and proceeded to ask Houston if she knew "Officer Gonzalez. . . Al. . . He works at the 76 Precinct." When Houston asked Reinoso, "Okay, and you're telling me that to say what?," Reinoso insisted she just wanted to know if Houston knew him.

Houston denied being disrespectful or discourteous to Reinoso in any way. Houston charged that it was Reinoso who was discourteous, "very loud, very boisterous, just saying stuff . . . being very verbal inside the car." Houston recounted Reinoso saying, "[F]uck, why are you pulling me over; I told you I didn't see that I ran a light; it doesn't fucking make sense."

Houston used her discretion and did not issue Reinoso a summons, testifying that she had sympathy for a crying child in the car. Nevertheless, Reinoso filed a CCRB complaint against

' Houston.

After the traffic stop, Houston spoke to Respondent about Reinoso's use of his name and advised him that "if that's his friend, the way [Reinoso] was carrying on with me, you know, it wasn't appropriate." Houston believed she also had another officer relay this information to Respondent as well. Houston was not aware of whether Reinoso had used Respondent's name on other occasions with other officers.

On cross examination, Houston admitted that Reinoso never asked, "I know Police Officer Aldyfrell Gonzalez, will you let me go." When asked if Reinoso tried to get out of the summons, Houston answered, "No, but it that's something with people who would say they know somebody, maybe that could be their intent, but I can't go on their intent because that's not what she said." Houston denied that she forwent issuance of a summons because Reinoso mentioned Respondent's name.

On re-direct examination, Houston stated that it was conveyed to Respondent that if Reinoso was his friend, he should make it known to her that her "totally disrespectful" attitude and "rudeness" was not appropriate when dealing with his colleagues.

#### Respondent

Respondent had been a member of the Department for 15 years. On October 31, 2008, he was working with Cofresi when they encountered Reinoso attired in a pirate costume. She invited them to meet her at the Mambo Lounge. At the time, Reinoso and Respondent were no longer in an intimate relationship – they were "just friends." Reinoso had said that she was practicing to become a bartender and was working at Mambo to learn how to make drinks.

Respondent and Cofresi went to the Mambo Lounge after work, driving there in separate

' cars and arriving at the same time. They parked across the street from the location and Respondent approached the entrance while Cofresi was locking his car. He heard a man at the door say, "He's got a gun on him, I don't give a fuck if he's a cop, he's not getting in here." The man kept saying, "I know you have a gun," so Respondent said okay, turned around and walked away. Reinoso was in front of the establishment and Respondent assumed she told the man that he was an officer, as he never identified himself to the man. After being denied entry, Respondent turned around and told Cofresi he was leaving. He was not aware that the establishment was an off-limits location in the 72 Precinct.

Respondent denied that he returned to the Mambo Lounge "a few days later or the next day or within a few days later" and made threats to the bouncer or owner. Respondent was not working "the next day," when an "Officer Gonzalez" allegedly went back to Mambo; it was Respondent's regular day off (RDO). He did not have his uniform on "the next day." At the time, he was assigned to the anti-crime unit and worked in plainclothes. He did not make false 911 calls to the establishment's location.

Respondent was ordered, during his official Department interviews, not to contact any Department member "relative to the investigation" and he did not violate that order. The morning after "the GO15," Cofresi called Respondent. At the time, he had known Cofresi for five years. They were talking about something else when Cofresi asked Respondent if he knew why Cofresi was notified to report to an investigations unit. Respondent said the extent of his conversation with Cofresi concerning the incident was, "Listen, just go down there, tell them the truth. You have nothing to hide, just tell them the truth and don't worry about it." He did not speak to Cofresi about the incident itself, or about what the questioning was going to consist of, or about his own testimony. He answered the questions posed to him during his two official

interviews to the best of his ability and did not intentionally lie during the course of any of those exchanges, nor at any time did he intentionally give false or misleading answers.

Respondent admitted making the phone call to Reinoso at issue. Prior to making that call, he had a conversation with Houston, who informed him that Reinoso was “was very disrespectful and she was throwing [his] name around at the car stop trying to get out of the summons.” Houston advised him that it would not be wise of Reinoso to act in that manner if she was going to use his name. He said he apologized to Houston and told the sergeant that he and Reinoso “at that point were not friends or anything.” He had dated Reinoso in the past and had broken up with her prior to the traffic stop.

Respondent also had a discussion with an Asian female officer from the 76 Precinct whose name he did not know. This officer told him that she responded to the traffic stop to assist Houston and that “the female in the car was just cursing and everything. . . Sergeant Houston wasn’t happy about it, you know, you need to go talk to her, and [Reinoso] was throwing your name around trying to get out of a summons.” According to Respondent, other officers had come across Reinoso and told him “similar stories when she’d been pulled over; she’d been stopped and she throws my name around.”

After hearing about Reinoso’s conduct at the traffic stop from Houston and the Asian female officer, Respondent was “pretty upset” and left Reinoso the message in which he told her not to use his name, cursed at her, and told her that if she ever used his name again he was going to have her arrested.

On cross examination, Respondent testified that he did not believe he worked on the day after Halloween, November 1, 2008, because he believed that day was a Sunday and he had Sunday as an RDO. November 1, 2008, however, was a Saturday. Upon reviewing his Activity

Log entry for Saturday, November 1, 2008, Respondent stated that he worked a 1500 by 2235 tour that day.<sup>2</sup>

Respondent agreed that he had been to the establishment located at 613 Fifth Avenue prior to November 1, 2008. He and Reinoso agreed to meet there on Halloween night. Prior to that night, Respondent had never seen or met the man who was at the front door of the Mambo Lounge, and yet, somehow, the man knew he was an officer.

As he admitted during his official Department interview, Respondent returned to the address in question subsequent to November 1, 2008. He remembered the day he went back but did not recall whether he was in uniform. He concurred that if he said in his official interview that he was in uniform on that occasion, then that would be accurate. He did not notify his command that he was leaving the confines of the 76 Precinct because there was "too much going on."

Respondent agreed that he used profanity in the message he left for Reinoso. He was upset that she kept using his name to avoid getting summonses and he told her that he informed his coworkers at the 76 Precinct that "if anything happened . . . to do what they had to do, issue a summons, arrest her, do what they had to do, but don't call me."

On re-direct examination, Respondent stated that he worked until 2330 hours on Saturday, November 1, 2008. He believed he was in uniform, setting up barriers for the New York City Marathon the next day. At 0030 hours on Sunday, November 2, 2008, Respondent's tour had already ended. His vehicle had already been turned in and he had signed out at 2330.

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<sup>2</sup> The handwriting in this part of the Activity Log is difficult to decipher. The first line for Saturday, November 1, 2008, lists Respondent's tour as 1500 by 2 and then three illegible numbers. He appears to have gone end of tour at 2330 hours. A standard tour for a uniformed member assigned to patrol or anti-crime is eight hours and 35 minutes, meaning that 1500x2335 should have been Respondent's scheduled tour.

## FINDINGS AND ANALYSIS

Case No. 2010-0218

### Introduction

The allegations in the instant case revolve around an establishment within the confines of the 72 Precinct in Brooklyn called Lola's Jazz Café, previously known as the Mambo Lounge. Respondent's acquaintance, Elizabeth Reinoso, worked there as a bartender. They had been intimate at one point, but their relationship on Halloween night 2008 was a matter of dispute. It is not exactly clear how friendly they were at that time. In any event, Respondent went to Lola's that night to meet up with Reinoso. He actually arrived shortly after midnight on November 1, 2008. Employees were aware that he was a police officer and had his firearm, and he was refused entry. It was alleged that in retaliation, Respondent started harassing the establishment through false 911 calls. The same patrol supervisor responded to two of the radio runs, a week apart. He realized what was going on and was approached by a Lola's employee. This led to one of the notifications to IAB.

While it is not charged as such, it was stated at trial that Respondent returned to Lola's, while on duty, and threatened that the establishment was going to receive more attention from law enforcement in the future. This encounter, *inter alia*, caused an attorney for Lola's to write a letter to Respondent's commanding officer, leading to the second notification to IAB. Respondent's relationship with Reinoso apparently soured after the Halloween incident. He warned her at one point that there was going to be enforcement action at the lounge so she had better have her "bartender license" in order.

It was also stated at trial that Lola's or Mambo was on the off-limits list for the 72 Precinct and that it was standard for them to frisk patrons. There was no evidence, other than the

possible existence of a borough-wide off-limits list, that Respondent, assigned to the 76 Precinct in Brooklyn, was aware of this. He is not charged with patronizing an off-limits establishment. Nevertheless, it gives some sense of the type of premises in question. That, and evidence that Lola's/Mambo had been the subject of enforcement measures, like summonses and inspections, may explain why management was so insistent on not admitting a police officer with his firearm.

Specification No. 1

It was charged that Respondent, angry about the refused entry, made a series of false 911 calls for purported incidents at 613 Fifth Avenue. Lieutenant Richard Tully was the lead investigator on the case. The original allegation was that Lola's was the subject of false 911 calls. Tully reviewed 33 radio runs from November 2008 to February 2009 and found six that "fit the criteria" as alleged by a Lola's employee; [REDACTED], to whom Tully had spoken. These were calls about guns or 10-13s. Tully listened to the six calls and three sounded like they were from the same caller: November 1, 2008, November 8, 2008, and November 15, 2008.

In the call on November 1, 2008, the caller stated that he got into an argument with a man that pulled a gun on him, "like I'm supposed to be scared of him." The caller described the suspect as a male Hispanic, about six feet tall, aged in his twenties, wearing an orange T-shirt, an orange hat and blue jeans, "kind of heavy set" and sporting a "little mustache."

Police Officer Anthony DiSpigna responded to this call, which was dispatched as a dispute with a firearm. He was not approached by anyone, did not see anything apparently related to the job, and asked the dispatcher for a callback. The call went back to a payphone located at a street corner up the block, or to a non-working cell phone. DiSpigna marked the job unfounded.

In the call on November 8, 2008, the caller said that there was a fight “inside” 613 Fifth Avenue. “[O]ne of the guys decided . . . showing a hand gun.” He put the gun back inside his waistband and re-entered Lola’s Jazz Café. This person was a bouncer and a “big guy,” the caller said. The bouncer was talking to two or three men. One of them pulled a knife, and the bouncer said, “I got a gun for you.” The bouncer was a male Hispanic, about 6’2” to 6’4” tall, wearing a brown T-shirt that said “Brooklyn” on the front in brown lettering. He was also wearing a brown baseball cap.

Sergeant Ronald Perez, the patrol supervisor, responded to this job. One of his officers informed him that the job was unfounded. No civilians approached Perez. The radio transmission indicates that an officer asked for a callback, which again went back to a payphone on the corner. The job’s final disposition was 90X or 90Y.

The third call, on November 15, 2008, stated that there was a “really bad fight inside the Lola Jazz Club.” The bouncer was beating someone up “pretty bad.” The victim “can’t really talk” but was saying “somebody call the cops.” The caller then became more specific, saying “there’s an off duty cop having a fight with the bouncer inside that club.” The call ended before the operator could get more information.

This call was transmitted as a 10-13, and Perez responded again, remembering that he had responded to the same location a week prior. Upon arriving at the scene, it was determined that there was only a dispute and that the job should be marked unfounded. It was on this occasion that Perez was approached by [REDACTED], the manager, leading to the notification to IAB.

Tully played the calls for three supervisors at the 76 Precinct: Lieutenant John Smith, Sergeant Joshua Foote and Lieutenant John Fioravante. All three identified the three calls as coming from Respondent. Police Officer Jose Cofresi, a friend and sometimes-partner of

Respondent who was with him on Halloween night, said that he was 75 to 85 percent sure it was Respondent. At trial, Respondent denied making the calls.

Respondent's counsel argued that the voice identifications were tainted. Aside from the fact that no expert witness was obtained to identify the voice, counsel argued that there was an inconsistency. In fact, there was "stone cold perjury." This was because each of the 76 Precinct supervisors was asked, and denied, that Tully told them it was Respondent's voice he was seeking to confirm. Tully, on the other hand, admitted that he did tell them this.

It is true that investigators should not, as counsel said, "lead the person who's doing the identification into the identification." In this context, however, the concerns are minimal. The three supervisors had to know that Tully was asking them about the voice because he thought they might be familiar with it. Thus, they already would have suspected that the voice belonged to someone in the 76 Precinct. Moreover, Smith was the ICO of the command and already knew that a complaint had been made about false 911 calls made by a Police Officer Gonzalez.

The three supervisors all testified without hesitation that it was Respondent's voice. Cofresi was mostly certain. These were four individuals that were familiar with Respondent's voice from working with him over a period of time. Smith noted that Respondent had "a very distinct way of saying numbers," which he recognized in the recordings. He was also sure that the voice did not sound like either of the other two Police Officers named Gonzalez from the 76 Precinct. In response, Respondent has offered a bare denial that the voice belonged to him. The Court credits the Department's witnesses and finds that it was Respondent's voice on the 911 calls.

It was not in dispute that the 911 calls were false. Each was from an anonymous caller and targeted either Lola's or the bouncer specifically. The police arrived and found that no one

had a gun and no one was being assaulted. Accordingly, Respondent is found Guilty of making the three “false telephone calls to 911” in question.

Specification Nos. 2 & 4

It is alleged in the second and fourth specifications that Respondent impeded the investigation by failing “to give complete and accurate answers to questions asked of him” during the two official Department interviews, held on November 4, 2009, and November 23, 2009. As alleged in the bill of particulars and at trial, Respondent gave a series of answers that were internally inconsistent and inconsistent with the interviews of Reinoso and Cofresi.

Respondent was examined concerning Lola’s Jazz Café and the Mambo Lounge. Tully began the interview by asking Respondent if he was familiar with “a bar in the confines in the 72 Precinct by the name of Lola’s Jazz Café.” Respondent denied that he was. When Tully followed up, “How about the Mambo Lounge?,” Respondent said that he was familiar with that location. Tully noted, “Okay. Yeah. It’s formerly Lola’s Jazz Café?” Respondent said he had no knowledge of that, and only knew it as Mambo. Tully asked, “Okay. It’s Fifth Avenue and approximately 17th Street.” Respondent answered, “It’s about 17th Street, yes.” Thus, from then on, Respondent was aware that the location in question had been called both Mambo and Lola’s.

When asked if he had “patronized that location,” Respondent said no, then admitted he last went there “years ago when it was called the Mambo Lounge.” Yet he admitted going there on November 1, 2008, and stated that it was possible that he had been there more recently, even within the months before Halloween.

The bill of particulars also alleged that Respondent equivocated with regard to the

Halloween incident. Respondent's original statement about the Halloween incident related that while he was crossing the street to the location, someone started screaming, "I know who the fucking guy is. You're a cop. He's not getting in there." Respondent said that he did not interact with this person at all, and instead turned around, got into his car, and drove away. Later in the interview, however, he said that a "[l]ittle, short Hispanic man," who appeared to be drunk but claimed he was the manager, approached him and said, "If you want, you know, you could . . . if you have a firearm, you could leave it in your car or whatever." Respondent declined and left.

Respondent was also asked whether he returned to Lola's/Mambo after November 1, 2008, in uniform and in a marked vehicle. He said that he did not remember. After he was warned about lying at an official Department interview, he admitted that he did return, likely on a radio run like a 10-85. The Hispanic man came up to him and blamed Respondent for summonses that the lounge had been receiving. Respondent told him he had nothing to do with it and left. He did not recall if it was "the day after or days after."

The Department alleged that Respondent equivocated with regard to the last time he had spoken to Reinoso before Halloween. He first said that he had not spoken to her in a few months. He then said "we probably had conversations. . . . [M]aybe once or twice a month if that." He said that they were not "dating," but Reinoso told Tully that they were dating, including at the time of the Halloween incident.

There is no question that Respondent was equivocating and willfully withholding information from Department investigators about the Halloween incident, its aftermath, and his contact with Reinoso. He thus failed to give "complete and accurate" answers.

The specification also alleges, however, that these incomplete and inaccurate answers

“did impede an Official Department investigation.” The Court does not see how that is the case. There is no evidence that Tully took any steps after the interview that he otherwise would not have taken, like interviewing Cofresi, Pelzer and Reinoso. Tully concluded, after speaking to Reinoso and Cofresi, that Respondent had provided inaccurate answers in his interviews. Nothing Respondent said prevented Tully from making that conclusion. Accordingly, Respondent is found Not Guilty of Specification Nos. 2 & 4.

### Specification No. 3

The third specification charges that Respondent violated an order given by Tully, “on or about November 4, 2009, and November 23, 2009, . . . not to have contact with anyone regarding the investigation that was pending.” The dates are those of Respondent’s two official Department interviews. The specification alleges that Respondent contacted two Department members assigned to the 76 Precinct. These were Cofresi and Pelzer.

At the end of Respondent’s first interview, Tully directed him not to “have a conversation with anybody regarding the interview you had today, including Officer Cofresi” (see DX 6a, pt. 2, p. 12 [as emended]). Cofresi was interviewed the next day. He testified at trial that Respondent called him the day before and told him that he was going to be subjected to an official Department interview. Respondent wanted Cofresi to tell the truth, “[t]ell them exactly what happened when we were at the bar.” Pelzer testified that she was staffing the TS at the 76 Precinct station house when Respondent called and asked to speak to Cofresi. He was not there, and Respondent asked Pelzer to tell him not to use a precinct line when he called back. Pelzer later allowed Cofresi to use her cell phone.

Respondent testified that Cofresi called him and they were talking about something else

when Cofresi brought up his interview notification. Respondent told him to tell the truth.

At the end of Respondent's second interview, Tully instructed him "not to have contact with anybody regarding this investigation." Pelzer testified that Respondent called her "like around Thanksgiving of November" while she was at her brother's house. In 2009, Thanksgiving Day was November 26, 2009. Respondent was on the line, and he told her to "tell people, if anybody calls, you tell them that I called to speak to you. . . [Y]ou tell them I to [sic] spoke to you."

Both Cofresi and Pelzer had a specific memory of the manner in which Respondent called to speak to Cofresi. Both recalled Respondent wanting to use a non-Department line. Respondent said that Cofresi called him, but admitted telling him to tell the truth in his Department interview. Respondent admitted that the conversation occurred after one of his interviews.

Pelzer stated that Respondent called her "around Thanksgiving" while she was at her brother's home. The most rational way to understand this testimony is that the call was after November 23, 2009, the Monday of Thanksgiving week that year and the date of Respondent's second interview. Moreover, the substance of Respondent's statement was plain: if anyone, i.e., Department investigators, asked her questions about the phone call to the TS, she should lie and say that he called to speak to her, not Cofresi.

Respondent thus violated the orders of Tully not to contact anyone regarding the investigation. Accordingly, he is found Guilty of Specification No. 3.

#### Specification No. 5

The fifth specification charges Respondent with engaging in conduct prejudicial to the

good order, efficiency or discipline of the Department in that on November 23, 2009, he “wrongfully contact[ed] a member of the service known to the Department and state[d] in sum and substance, ‘Somebody is going to call you. When they call, tell them I called to speak with you.’” This was the conversation Pelzer related. There is no reason to doubt Pelzer’s recollection of the call. Her testimony was that Respondent told her to lie about to whom he was trying to speak. The import was clear: if Department investigators inquired about the phone call he made to her at the TS, asking to talk to Cofresi, Pelzer should lie and say that he called to speak to her. This was contrary to the good order, efficiency and discipline of the Department and Respondent is accordingly found Guilty.

#### Specification No. 6

The sixth specification alleges that Respondent made “false and misleading statements” during his second official Department interview by stating “that he did not contact a second member of the service known to the Department, when in fact he had.”

At his second interview, Tully asked Respondent, “[H]ave you spoken to Officer Cofresi since your, your GO-15 interview?,” i.e., the first one, held on November 4, 2009. Respondent answered that he had not. The investigators asked the question eight times, asking Respondent whether he was certain about not speaking to him and if he had spoken to him “as soon as you left this office on November 4th?” Tully asked, “You did not call Officer Cofresi,” and Respondent emphatically replied, “I didn’t talk to Officer Cofresi” (DX 7a, p. 26 [as emended]).

By Respondent’s own admissions at trial, this was a false statement. He testified that he spoke to Cofresi the morning after his first interview. Respondent’s denial at the second official interview was far from a mere denial of misconduct. It created a “false description of events,”

see Patrol Guide § 203-08, Note, para. 3. He made the affirmative declaration that he had not even talked to Cofresi since “before this.” Accordingly, Respondent is found Guilty of Specification No. 6.

#### Specification No. 8

The eighth specification alleges that “on or about and between July 10, 2008 and April 30, 2009,” Respondent “fail[ed] to make proper entries in his memobook.” Tully testified that in Respondent’s Activity Log for that period, DX 8, there were “numerous omitted and erroneous entries” between these two dates. For example, most of the months of July and August 2008 are missing. There was nothing for October 31, 2008, even though Respondent acknowledged working that day and running into a costumed Reinoso, which led him and Cofresi to Lola’s that night. Accordingly, Respondent is found Guilty of Specification No. 8.

#### Case No. 2010-0272

##### Introduction

This part of the case against Respondent involves the telephone message he left for Reinoso on March 17, 2009. She was pulled over in a traffic stop by 76 Precinct officers, including Sergeant Tanya Houston. The encounter did not go well. Each thought the other was disrespectful and rude. At one point, Reinoso asked Houston if Respondent was working. Houston’s reaction demonstrated that she took this remark exactly how Reinoso meant it: as a request for courtesy.

After the stop, which did not result in a summons, Houston told Respondent that a person that said she was a friend of his had acted rudely and disrespectfully.

Respondent called Reinoso on the telephone and left a voicemail. There is no transcript but the recording is in evidence as DX 5. The message was as follows (inaudible portions are denoted with brackets): “Yeah [] this is Aldy. I just talked to a few cops here and . . . a sergeant. The incident that you had, a sergeant [] pulled you over? You are so lucky that they did not call me. [] I would have told them to throw handcuffs on you and fucking bring you into the precinct. Okay? Don’t ever mention my name again. Everyone in this precinct has been told if they pull over Elizabeth Reinoso from 423 Baltic,<sup>3</sup> summons her till she cries. So I don’t want to hear you say my name, calling me, you have some fucking nerve calling me. Okay? So don’t fucking ever mention my fucking name. Goodbye.” The message was played by Reinoso at her CCRB interview in March 2009. Respondent was interviewed by the CCRB in September 2009.

#### Specification No. 1

The first specification charges Respondent with courtesy by leaving her “an obscene and rude voice mail message.” Respondent’s position at trial was that this was a private conversation between himself and Reinoso, a woman with whom he had a prior relationship. He is correct in arguing that in general, even profane arguments between a member of the Department and an associated non-member are not actionable. See Case No. 82572/07, June 16, 2009, p. 102 (hearing officer was “not of the opinion that each and every time a member has a verbal dispute or argument with their spouse, significant other or friend that the member is violating the Patrol Guide and engaging in conduct prejudicial to the Department. . . . Members should be allowed to have disagreements with another person even in a passionate manner”); see also Case Nos. 2007-1120 et al., pending before Police Comm’r as of Jan. 6, 2012, p. 25 (declining to address whether officer called girlfriend “a piece of shit”).

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<sup>3</sup> i.e., Reinoso’s residence; 423 Baltic Street is part of the Gowanus Houses, which is within the confines of the 76 Precinct and where, Respondent testified, Reinoso lived.

This is an atypical situation, however. It is changed by the fact that Respondent was calling Reinoso in his capacity as a police officer, warning her not to use his name to get out of tickets. Respondent rightly contends that it was not wrong of him to do so. Members of the service, however, are not allowed to be discourteous, obscene and rude when taking police action. Because the Court finds that Respondent was discourteous in that, acting in his capacity as a Department member, he left Reinoso a rude and obscene telephone message, he is found Guilty of Specification No. 1.

#### Specification No. 2

The second specification accuses Respondent of abuse of authority “by wrongfully threatening to have summonses issued” to Reinoso. The Court agrees that this was improper. He told Reinoso that all 76 Precinct officers had been informed that if they pulled her over, they should “summons [her] till [she] cries.” Respondent essentially was saying that he had told officers that if they had Reinoso on a traffic stop, they should give her summonses that they would not otherwise have given. This was an abuse of Respondent’s authority as a police officer and the Court finds him Guilty.

#### Specification No. 3

In the third specification, it is alleged that Respondent “impede[d] a Civilian Complaint Review Board investigation by denying that he had left an obscene and rude voicemail message for Elizabeth Reinoso when in fact he had.” Respondent was asked if he ever left Reinoso any voicemail messages. He was not specifically asked whether he had left her an obscene and rude one. In any event, he denied leaving any voicemail messages.

Respondent's denial was obviously false; he admitted leaving the message at trial. Nevertheless, the Court does not see how the CCRB's investigation was impeded. The investigators were already in possession of the voicemail by the time of Respondent's interview in September 2009 because Reinoso's interview had occurred in March 2009. Respondent's denial did not prevent the CCRB or the Department from concluding that it was his voice and that he left the message. Accordingly, Respondent is found Not Guilty.

#### PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Education, 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on July 18, 1996. Information from his personnel folder that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of serious misconduct. On Halloween night 2008, he was off-duty and tried to get into a lounge called Lola's Jazz Café, where he was going to meet up with a romantic acquaintance, Elizabeth Reinoso. He was not allowed in, however, because management knew he was a police officer and was armed. In response to this perceived slight, Respondent began a personal vendetta against the establishment. That night, and twice thereafter, always around or after midnight on Saturday mornings, each one a week apart, Respondent made false 911 calls, alleging that someone had a gun or that an off-duty police officer was being beaten up. This had the effect of diverting police resources from real events and could have placed lives in danger. This is especially true with regard to the false 10-13 Respondent caused, as a large number of police officers, including members from a nearby

precinct, responded to the job.

Subsequently, Respondent seemed to have a falling out with Reinoso. When she got pulled over during a traffic stop and mentioned his name to the sergeant that pulled her over, it got back to Respondent. He left her an irate message on her voicemail, telling her that the entire command had been instructed to “summons her till she cries” if they pulled her over again.

Respondent also attempted to interfere with the official Department investigation into the allegations against him. Despite being ordered not to contact anyone with regard to the investigation, Respondent told Cofresi, a friend that went with Respondent to Lola’s that night, to “tell the truth.” Respondent told Pelzer, the 76 Precinct TS officer that answered the phone when Respondent called Cofresi at the station house, that Pelzer should say, if asked, that Respondent called to talk to her. Furthermore, while Respondent’s answers at his official Department interviews did not impede the investigation in a technical sense, he was far from forthcoming and could not give straightforward answers to simple questions.

The Court has reviewed Respondent’s prior disciplinary history with the Department, see Confidential Mem., infra. That, and his serious and extensive misconduct in the instant case, are incompatible with service in this organization. Accordingly, the Court recommends that the Respondent be DISMISSED from employment with the New York City Police Department.

Respectfully submitted,

David S. Weisel

Assistant Deputy Commissioner – Trials

**APPROVED**  
MAR 26 2012  
RAYMOND W. KELLY  
POLICE COMMISSIONER

POLICE DEPARTMENT  
CITY OF NEW YORK

From: Deputy Commissioner Trials

To: Police Commissioner

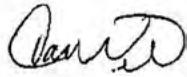
Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER ALDYFRELL GONZALEZ  
TAX REGISTRY NO. 917694  
DISCIPLINARY CASE NOS. 86029/10 (2010-0218) & 2010-0272

In his last three annual evaluations, Respondent received an overall rating of 3.0 "Competent" in 2010 and 2009; and 3.5 "Competent/Highly Competent" in 2008. He has been awarded two medals for Excellent Police Duty.

Respondent was placed on Level 2 Discipline Monitoring in 2009 for "Serious Misconduct" and Level 1 Force Monitoring in 2003 for "Negative Performance/Behavior." Respondent has a total of 57 arrests.

In 2005, Respondent was served with Charges and Specifications. He surrendered 28 vacation days and was placed on one year of dismissal probation. Respondent issued three parking-violation summonses without observing said violations. In addition, Respondent failed to appear in court for said summonses after being ordered by a superior officer (see Disciplinary Case Nos. 78995/03 & 79663/04).

For your consideration.



David S. Weisel  
Assistant Deputy Commissioner Trials